

REMARKS

This is in response to the Office Action mailed on March 30, 2006, in which claims 29-34, 37-39, 41-45, 47 and 48 were rejected, and claims 1-28, 35, 36, 40 and 46 were withdrawn from consideration. Of the rejected claims, each claim was rejected in view of either Dorn, U.S. Patent No. 3,800,958 ("the Dorn '958 patent") or Duff, U.S. Patent No. 934,148 ("the Duff '148 patent"), or both as in the case of claim 29. With this Amendment, claims 1, 4, 29 and 37 are amended.

I. Election/Restriction

The Office Action states that claims 1-7, 9-14 and 16 were withdrawn from consideration as being directed to a non-elected invention, and claims 8, 15, 17-28, 35, 36, 40 and 46 stand withdrawn from consideration pursuant to 37 C.F.R. § 1.142(b).

The Office Action states that newly submitted claim 1 contains subject matter which is not directed to (i.e. does not read on) the elected species, and claim 1 now reads on the non-elected species. (See Office Action 3/30/06 at p. 2.)

As amended, claim 1 requires that "the media holding region is located forward of the first horizontal extension element, and no other horizontal extension element is connected to the first vertical element and extends into the media holding region." Thus, the first horizontal extension element is located behind the media holding region, and the media holding region is defined, at least in part, by the first vertical element and the first horizontal extension element. As amended, claim 1 reads on the elected species of Figs. 1a-1c, 2a, and 3-8. As shown in FIG. 1B, the media holding region is located forward of the first horizontal extension element (26) and no other horizontal extension element is connected to the first vertical element (12) and extends into the media holding region.

Dependent claim 4 has also been amended, similar to claim 1, and requires that "the media holding region is located forward of the second horizontal extension element, and no other horizontal element is connected to the second vertical element and extends into the media holding region."

Amended claim 1 reads on the elected species and is in condition for allowance. Thus, Applicant respectfully requests that withdrawn claim 1 be reinstated and

allowed, as permitted under 37 C.F.R. § 1.142(b). Because claims 2-7, 9-14 and 16 depend from claim 1, Applicant respectfully requests that withdrawn claims 2-7, 9-14 and 16 also be reinstated and allowed.

Claims 8, 15 and 17-28 were withdrawn as a result of an election made on January 25, 2005, in response to a restriction requirement mailed on January 10, 2005. Claims 8, 15 and 17-28 all depend from claim 1. Because claim 1 is now allowable, dependent claims 8, 15 and 17-28 may also be reinstated and allowed under 37 C.F.R. § 1.142(b), as respectfully requested by Applicant.

Claims 35, 36, 40 and 46 were also withdrawn as a result of the election made on January 25, 2005. Claims 35 and 36 depend from claim 29, and claims 40 and 46 depend from claim 37. With this Amendment, claims 29 and 37 are now in condition for allowance, as explained below. Thus, Applicant respectfully requests that dependent claims 35, 36, 40 and 46 be reinstated and allowed.

II. Claim Rejections under 35 U.S.C. § 112, second paragraph

Claims 29 and 37 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As amended, claim 29 requires a media holding device having a horizontal support connected to a first upright and a second upright, and a media holding region defined by the first and second uprights and the horizontal support, wherein the horizontal support is positioned behind the media holding region and *the media holding region is free of any horizontal element forward of the horizontal support that is connected to the first and second uprights.* (emphasis added)

Similarly, as amended, claim 37 requires a media holding device having a media holding region defined as being between first and second uprights and forward of first and second horizontal support shafts, so that the first and second horizontal support shafts are positioned behind the media holding region and *the media holding region is free of any horizontal element forward of the first and second horizontal support shafts and extending from the first and second uprights.* (emphasis added)

With the amendments to claims 29 and 37, claims 29 and 37 define that the media holding region is located forward of the horizontal support, and no additional horizontal supports are located in the media holding region and connected to the uprights. Thus, the media holding region of claims 29 and 37 may include a horizontal surface, such as a table, since such a horizontal surface is not connected to the uprights of the media holding device. As such, amended claims 29 and 37 are not inaccurate or misdescriptive.

III. Claim Rejections under 35 U.S.C. § 102(b)

Claims 29-31 were rejected under 35 U.S.C. § 102(b) as being anticipated by the Dorn '958 patent.

As stated above, claim 29 requires that the horizontal support is positioned behind the media holding region and the media holding region is free of any horizontal element forward of the horizontal support that is connected to the first and second uprights.

In the Dorn '958 patent, the media holding region, defined between the pair of bookends 18, is not free of any horizontal element because rails 16 constitute horizontal elements included within the media holding region that are connected to arms 19. Because the Dorn '958 patent does not teach or suggest at least one claim limitation of claim 29, claim 29 is not anticipated by the Dorn '958 patent.

The media holding device of claim 29 is configured such that the device, as well as the media that the device holds, both rest on a horizontal surface. The Dorn '958 patent discloses a book rack where the media is supported by and sits on top of the horizontal portions of the book rack. Specifically, the Dorn '958 patent discloses "[i]n all forms of the invention, the side bar 10 constitutes a stop member against which edge portions of the bindings of books on the floor provided by rails 16 will rest, *so that no part of any book binding edge may come in contact with a surface on which the rack is seated.*" (the Dorn '958 patent, col. 3, lines 9-14) (emphasis added). The Dorn '958 patent thus teaches away from the media holding device of claim 29 in which the media holding region is free of any horizontal supports and the media rests on the same horizontal surface that the device rests on. Claim 29 is patentable over the Dorn '958 patent.

Claims 30 and 31 depend from claim 29 and thus are allowable therewith.

Claims 29, 31, 32 and 37-39 were rejected under 35 U.S.C. § 102(b) as being anticipated by the Duff '148 patent.

The Duff '148 patent discloses a book rack, where the media is supported by and sits on top of the horizontal portions of the book rack. In the Duff '148 patent, the media holding region is defined between sections A and A', and includes three horizontal extension elements (rods B and B') extending from first and second uprights (posts D and D'), as shown in FIG. 1. In Duff, it is conceivable that one of the three rods may be positioned behind the media holding region and the media may rest on two of the three rods. However, in Duff, the media holding region always includes at least one support rod extending from posts D and D'. Thus, the Duff '148 patent does not teach or suggest that the media holding region is free of any horizontal element forward of the horizontal support that is connected to the first and second uprights, as required by amended claim 29. As such, claim 29 is not anticipated by the Duff '148 patent.

Claims 31 and 32 depend from claim 29 and are allowable therewith.

Claim 37 requires a first horizontal support shaft and a second horizontal support shaft that are slidably connected and a media holding region defined as being between first and second uprights and forward of the first and second horizontal support shafts. Claim 37, as amended, requires that the media holding region is free of any horizontal element forward of the first and second horizontal support shafts and extending from the first and second uprights. As outlined above in reference to claim 29, the Duff '148 patent does not teach or suggest a media holding region free of any horizontal element forward of the first and second horizontal support shafts and extending from the first and second uprights. Thus, claim 37 is also not anticipated by the Duff '148 patent.

Claims 38 and 39 depend from claim 37 and are allowable therewith.

III. Claim Rejections under 35 U.S.C. § 103(a)

Claims 30, 33, 34, 41-45, 47, and 48 were rejected under 35 U.S.C. § 103(a) as being unpatentable over the Duff '148 patent. Claims 30, 33 and 34 depend from claim 29 and are allowable therewith. Claims 41-45, 47 and 48 depend from claim 37 and are allowable therewith.

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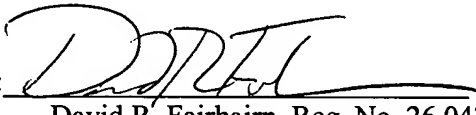
CONCLUSION

Because the prior art made of record does not show, suggest, or teach all the limitations in claims 1-48, these claims are in condition for allowance. Favorable reconsideration and allowance of this application are respectfully requested.

Respectfully submitted,

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